

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF AMENDMENT  
ARM 12.5.709 pertaining to the Pilot        )  
Program for Aquatic Invasive Species        )  
in the Flathead Basin                        )

TO: All Concerned Persons

1. On December 27, 2019, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-523 pertaining to the proposed amendment of the above-stated rule at page 2286 of the 2019 Montana Administrative Register, Issue Number 24.

2. The department has amended the above-stated rule as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: The department received numerous comments in support of the amendment to remove the expiration date of the rule and for the mandatory inspection requirements to be indefinite for the Flathead Basin. Comments stated that the program has been successful so far and urged to continue the protection for waters in the Flathead Basin.

RESPONSE #1: The department appreciates your participation and support in this rulemaking process.

COMMENT #2: The department received a few comments in support of expanding the program to other lakes and major launch sites across the state.

RESPONSE #2: The AIS program has lake-based inspection stations at some high traffic locations (Tongue River and Fresno Reservoir), but the main focus of the program is to address AIS transport risk for boats entering Montana and crossing west over the Continental Divide.

COMMENT #3: A few comments were received in support of severe fines for those that fail to obey the rule.

RESPONSE #3: These comments are outside the scope of this rulemaking. Fines for violations are set forth by law under 80-7-1014, MCA.

COMMENT #4: A few comments were received in support of extending the season and hours of the inspection stations. One comment suggested that the stations be staffed 24/7 in order to make sure that no vessels ever get missed.

RESPONSE #4: Watercraft inspection season and hours of operation are being extended in 2020 with many stations operating during daylight hours. Nighttime inspection station operations are costly, have additional safety concerns, and would require enforcement support.

COMMENT #5: A comment was received suggesting that boats that never leave the Flathead Basin should get a tag.

RESPONSE #5: A boat that never leaves the Flathead Basin does not require an inspection.

COMMENT #6: The department received a comment in opposition to any and all mandatory inspection requirements. The comment stated that it was an inconvenience for outdoorsmen and that migratory waterfowl will eventually bring AIS to Montana waters. The comment suggested that money used for AIS prevention could be better used at managing Flathead Lake as a destination trophy trout fishery.

RESPONSE #6: Watercraft inspection is the best available tool to address the spread of AIS on watercraft. There is no data supporting the transport of AIS on waterfowl for long distances.

COMMENT #7: The department received a comment in opposition of the amendment and in support of letting the rule expire. The comment stated that it was repetitive and unnecessary and that it sends the message that the Flathead is more important than the rest of the state.

RESPONSE #7: The highest risk waters in the state for invasive mussel introduction are Fort Peck and Flathead Lake. Additional focus on prevention at both waterbodies is warranted but is not impacted by this rule.

COMMENT #8: A comment was received in support of the amendment to make the rule indefinite but with hopes that it will become easier for boats to go through inspections.

RESPONSE #8: For local boats that are clean, drained, and dry, inspections should take less than five minutes.

COMMENT #9: The department received a comment that suggested an inspection station was needed at Hungry Horse.

RESPONSE #9: A boat that is traveling from outside the basin should be inspected at one of the existing stations prior to reaching Hungry Horse Reservoir.

COMMENT #10: A few comments were received that stated that more funding was needed to support the program.

RESPONSE #10: These comments are outside the scope of this rulemaking.

/s/ Aimee Hawkaluk

Aimee Hawkaluk

Rule Reviewer

/s/ Martha Williams

Martha Williams

Director

Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 4, 2020.